

REMARKS

In the Office Action mailed April 1, 2009, the Office noted that claims 17, 20-23, 25-31 and 33 were pending and rejected claims 17, 20-23, 25-31 and 33. No claim have been amended, no claims have been canceled, claims 34-36 are new, and, thus, in view of the foregoing, claims 17, 20-23, 25-31 and 33-36 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

OBJECTION TO THE DRAWINGS

The drawings stand objected to. In particular the Office asserts that drawings do not show every feature of the invention as specified in the claims. In particular, the Office asserts that a first recordable maximum speed and a second recordable maximum speed are not shown in the figures.

However, the "recordable maximum speeds" for both layers are indicated by the "Extended information", which is the data of the land pre-pits whose field ID is "ID #1" (see Figs. 4, and 6 of the present application). More specifically, in the Specification of the present application, the case where the recordable maximum speed for L0 layer is 4X speed and the recordable maximum speed for L1 layer is 1X speed (see page 27 lines 8 to 11 of the Specification) is explained. In this case, page 31 lines 1-19 of the Specification and Fig. 8 discloses that

(i) if the value of the "Extended Information" is "0001, the maximum field ID is "ID#5" and thereby the maximum speed is identified as "1X" and (ii) if the value of the "Extended Information" is "0010, the maximum field ID is "ID#13" and thereby the maximum speed is identified as "4X". This means that (i) Fig. 6 and 8 disclose, as one example of, the "first recording speed information which indicates the first recordable maximum speed", the "Extended Information" whose field ID is "ID #1" and which indicates that the recordable maximum speed for L0 layer is "4X" and (ii) Fig. 4 and 8 disclose, as one example of the "second recording speed information which indicates the second recordable maximum speed", the "Extended Information" whose field ID is "ID#1" and which indicates that the recordable maximum speed for L1 layer is "1X".

Therefore, the Applicants believe that both of the "first recordable maximum speeds (first recording speed information)" and the "second recordable maximum speeds (second recording speed information)" are shown in figures.

Fig. 12 as well shows that the information recording apparatus 300 includes the "memory 355". In addition, page 39 lines 7-11 of the Specification of the present application discloses that "the recordable maximum speed and the optimum recording condition [...] are obtained in the memory or the like of the information recording apparatus". This means that Fig. 12 discloses, as one example of the "storing device in which at

least the first and second recording condition information are registered", the "memory 355" in which the optimum recording condition is recorded.

Therefore, the applicant believes that the feature of "storing device in which at least the first and second recording condition information are registered" is illustrated in figures.

For at least the reasons discussed above, the Applicants respectfully request the objection be withdrawn.

REJECTIONS under 35 U.S.C. § 112

Claims 17, 20-23, 25-31 and 33 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement.

However, page 31 lines 1-19 of the Specification and Fig. 8 of the Specification discloses that (i) if the value of the "Extended Information" is "0001, the maximum field ID is "ID#5" and thereby the maximum speed is identified as "1X" and the strategy information for 1X, which is the data of the land pre-pits whose field IDs are "ID#2" and "ID#5", is obtained, and (ii) if the value of the "Extended Information" is "0010, the maximum field ID is "ID#13" and thereby the maximum speed is identified as "4X" and the strategy information for 1X, which is the data of the land pre-pits whose field IDs are "ID#2" and "ID#5", the strategy information for 2X, which is the data of the land pre-pits whose field IDs are "ID#6" and "ID#7", and the

strategy information for 4X, which is the data of the land pre-pits whose field IDs are "ID#8" to "ID#13" are obtained. Namely, page 31 lines 1-13 and Fig. 6 and 8 disclose that (i-1) the recordable maximum speed for L0 layer is indicated by the "Extended Information" which is the data of the land pre-pits on the L0 layer whose field ID is "ID #1" (i.e. the first recordable maximum speed is indicated by the first recording speed information) and (i-2) the optimum recording condition for L0 layer is indicated by the "Strategy Information", which is the data of the land pre-pits on the L0 layer whose field IDs are "ID #2" and "ID#5" to "ID#13" (i.e. the first optimum recording condition is indicated by the first recording condition information). Similarly, page 31 lines 1-13 and Fig. 4 and 8 disclose that (ii-1) the recordable maximum speed for L1 layer is indicated by the "Extended Information" which is the data of the land pre-pits on the L1 layer whose field ID is "ID #1" (i.e. the second recordable maximum speed is indicated by the second recording speed information) and (i-2) the optimum recording condition for L1 layer is indicated by the "Strategy Information", which is the data of the land pre-pits on the L1 layer whose field IDs are "ID #2" and "ID#5" (i.e. the second optimum recording condition is indicated by the second recording condition information).

Therefore, the applicant believes that the Specification absolutely discloses the "first recording condition

information", the "second recording condition information", the "first optimum recording condition", the "second optimum recording condition", the "first recording speed information", the "second recording speed information", the "first recordable maximum speed", and the "second recordable maximum speed".

Additionally, claims absolutely shows that "at least first recording condition information and second recording condition information are recorded in the management information area" and that "at least first recording speed information and second recording speed information are recorded in the management information area". Namely, claims do not limit that there are only two situations (first and second) exist in recording condition and recording speed.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 17, 20-23, 25, 26 and 33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lee, U.S. Patent No. 7,113,475. The Applicants respectfully disagree and traverse the rejection with an argument and amendment.

Lee discusses an optical information storage medium where nominal recording speed information is recorded in a read-only zone, and maximum and minimum recordable speed information is recorded in a recordable zone of an area other than a user data area.

Ob page 6 of the Office Action, it is asserted that Lee, Fig. 2; col. 5, lines 10-16 "at least (i) a first recording speed information which indicates a first recordable maximum speed for the first recording layer and (ii) a second recording speed information which indicates a second recordable maximum speed for the second recording layer are recorded in the management information area," as in claim 17.

However, nowhere in the cited text does it disclose that both (i) a first recording speed information and (ii) a second recording speed information are recorded in the management information area."

For at least the reasons discussed above, claim 17 and the claims dependent therefrom are not anticipated by Lee.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 27, 28 and 31 stand rejected under 35 U.S.C. § 103(a) as being obvious over Lee in view of Ito, U.S. Patent No. 7,184,377. The Applicants respectfully disagree and traverse the rejection with an argument.

Claims 27 and 31 disclose similar features as claim 17. Thus, for the reasons discussed above, as to claim 17, Lee and Ito, taken separately or in combination, fail to render obvious the features of claims 27 and 31 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

NEW CLAIMS

Claims 34-36 are new. Support for the claims may be found, for example, Figs. 4, 6 and 8; and page 27 lines 8-11; and page 31 lines 1-19 of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of the claims. The Applicants submit that the subject of the added claims is not disclosed by the prior art.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 112, 102 and 103. It is also submitted that claims 17, 20-23, 25-31 and 33 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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